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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

APR 6 2010

JAMES N. HATTEN, Clerk
By: *S. Hatten* Deputy Clerk

SHEILA BREWINGTON,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES, LLC

PLAINTIFF'S VERIFIED
COMPLAINT AND
DEMAND FOR JURY
TRIAL

Defendant.

2 10 -CV-0055 -WCO

SHEILA BREWINGTON ("Plaintiff"), through her attorneys, KROHN & MOSS, LTD., alleges the following against PORTFOLIO RECOVERY ASSOCIATES, LLC, ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

4. Defendant resides and conducts business in the state of Georgia, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1331(b)(1).

6. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

7. Plaintiff is a natural person residing in Marble Hill, Pickens County, Georgia.
8. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
9. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.
10. Defendant is a national company located in Norfolk, Virginia.
11. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

12. Defendant places constant and continuous calls to Plaintiff, seeking and demanding payment of an alleged debt (See Exhibit A).
13. Defendant calls Plaintiff from 757-961-3546, and 800-772-1413.
14. Defendant calls Plaintiff on her cell phone at 678-654-2324.
15. Defendant failed to send Plaintiff a debt validation letter, even though Plaintiff requested one.

COUNT I DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff.

- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse or harass Plaintiff.
- c. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the debt within 5 days after the initial communication including: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

17. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress. *See Exhibit A.*

WHEREFORE, Plaintiff, SHEILA BREWINGTON, respectfully requests judgment be entered against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC, for the following:

- 18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- 19. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

20. Actual damages;
21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
22. Any other relief that this Honorable Court deems appropriate.

~~RESPECTFULLY SUBMITTED,~~

DATED: February 9, 2010

By:

Alex Simanovsky, Esq.
Attorney for Plaintiff
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Atlanta, Georgia 30345

GA BAR 646874

Of Counsel
Krohn & Moss, Ltd.
10635 Santa Monica Blvd., Suite 170
Los Angeles, CA 90025

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, SHEILA BREWINGTON, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF GEORGIA)

Plaintiff, SHEILA BREWINGTON, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SHEILA BREWINGTON, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

February 17 2010
Date

Sheila R. Brewington
SHEILA BREWINGTON *Brewington*
S&F